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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MALIK ALI MUHAMMAD,

Petitioner,

v.

DERRAL ADAMS, Warden,

Respondent.

C 07-3627 MMC (PR)

**MOTION TO DISMISS
PETITION FOR WRIT OF
HABEAS CORPUS AS
UNTIMELY**

Respondent hereby moves to dismiss the petition for writ of habeas corpus as untimely under 28 U.S.C. § 2244(d).

A motion to dismiss in lieu of an answer on the merits is proper where the petition is procedurally defective. *See White v. Lewis*, 874 F.2d 599, 602 (9th Cir. 1989); *O'Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990); Rules Governing 28 U.S.C. § 2254 Cases, Rule 4, and Advisory Committee Notes; *see also Jablon v. Dean Witter & Co.*, 614 F.2d 677, 682 (9th Cir. 1980) (motion to dismiss proper if time bar is clear from face of complaint).

We have not noticed a hearing date because petitioner is an incarcerated state prisoner

1 who is representing himself in this case.

3 STATEMENT OF THE CASE

4 In 2003, a jury found petitioner guilty of stalking and making criminal threats. Petition
5 at 2-3. The trial court suspended the imposition of sentence and placed petitioner on probation for
6 five years. In 2004, the court revoked petitioner's probation and sentenced him to state prison for
7 32 months. Petition at 2.

8 In 2003, petitioner appealed from his conviction. Exh. 1. In 2004, he appealed from the
9 revocation of probation. Exh. 2. The first appeal was denied by the California Court of Appeal on
10 February 22, 2005, while the second appeal was denied on March 29, 2005. Exhs. 1, 2. Petitioner
11 filed a petition for review in the first appeal. Exh. 3. The California Supreme Court denied review
12 on April 27, 2005. *Id.*

13 On April 18, 2006, petitioner filed a habeas petition in Alameda County Superior Court.
14 Exh. 4. The petition was denied that same day. Exh. 5.

15 On June 20, 2006, petitioner filed a habeas petition in the California Court of Appeal.
16 Exh. 6. The petition was denied on June 22, 2006. *Id.*

17 On October 17, 2006, petitioner filed a habeas petition in the California Supreme Court.
18 Exh. 7. The petition was denied on April 18, 2007. *Id.*

19 On July 13, 2007, petitioner filed the instant federal habeas petition, which raises
20 challenges to both the trial and the probation revocation. On October 23, 2007, the Court ordered
21 respondent to show cause why the petition should not be granted. The following is our response.

23 ARGUMENT

24 THE PETITION SHOULD BE DISMISSED AS UNTIMELY

25 Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), petitioner had
26 one year from the date his state judgment became final by the conclusion of direct review to file a
27 habeas corpus petition in federal court. 28 U.S.C. § 2244(d)(1)(A). Petitioner's trial claims became
28 final on July 26, 2005, 90 days after the California Supreme Court denied review, when the time to

1 file a petition for certiorari expired. *Bowen v. Roe*, 188 F.3d 1157, 1158-1159 (9th Cir. 1999). His
 2 probation revocation claims became final on May 8, 2005, when the 40-day time period to file a
 3 petition for review expired. *See Smith v. Duncan*, 297 F.3d 809 (9th Cir. 2002). Taking the later
 4 of those two dates, absent any tolling, petitioner had until July 26, 2006, to file a timely habeas
 5 corpus petition in federal court. *See Patterson v. Stewart*, 251 F.3d 1243, 1246 (9th Cir. 2001).

6 The AEDPA allows for tolling during the pendency of a "properly filed application for
 7 State post-conviction or other collateral review with respect to the pertinent judgment or claim." 28
 8 U.S.C. § 2244(d)(2). This includes "all of the time during which a state prisoner is attempting,
 9 through proper use of state court procedures, to exhaust state court remedies with regard to a
 10 particular postconviction application." *Nino v. Galaza*, 183 F.3d 1003, 1006 (9th Cir. 1999),
 11 quoting *Barnett v. Lemaster*, 167 F.3d 1321, 1323 (10th Cir. 1999). In other words, "the statute of
 12 limitations is tolled from the time the first state habeas petition is filed until the California Supreme
 13 Court rejects the petitioner's final collateral challenge." *Id.*, footnotes omitted; *Carey v. Saffold*, 536
 14 U.S. 214, 223 (2002). However, where a prisoner unreasonably delays between state court petitions,
 15 there is no tolling for the intervening (or gap) period. *Evans v. Chavis*, 546 U.S. 189, 198-201
 16 (2006); *Saffold*, 536 U.S. at 225.

17 In this case, petitioner is entitled to tolling for the time his state superior court and court
 18 of appeal petitions were pending, as well as the period between the two petitions, as he did not
 19 unreasonably delay in filing his petition in the court of appeal after denial of his petition in the
 20 superior court. Thus, he is entitled to continuous tolling, from April 16, 2006 to June 22, 2006, for
 21 a total of 65 days. However, he is not entitled to tolling for the period between his state court of
 22 appeal and supreme court petitions, as he unreasonably delayed filing in the state supreme court for
 23 117 days after denial of his petition in the court of appeal.

24 In *Evans v. Chavis*, 546 U.S. at 198, the Supreme Court held that in the absence of a clear
 25 ruling from the state court regarding timeliness, a federal court must decide for itself whether a state
 26 habeas petition in California was filed "within what California would consider a 'reasonable time.'"
 27 The Supreme Court noted that 60 days is the longest amount of time most states allow to present a
 28 claim to a higher court, and found the six-month delay before it unreasonable under state law. *Id.*

1 at 201.

2 Here, petitioner delayed 117 days between his court of appeal and supreme court petitions,
3 far more than the 60 days considered reasonable by most states. Accordingly, petitioner is not
4 entitled to "gap" tolling for the interval between his court of appeal and supreme court petitions. *See*
5 *Culver v. Director of Corrections*, 450 F. Supp. 2d 1135, 1140-1141 (C.D. Cal. 2006) (finding filing
6 delays of 71 and 97 days between state petitions to be unreasonable under *Chavis*); *Dorthick v.*
7 *Hamlet*, No. C 06-4860 CRB (PR), 2007 WL 1430041, *3 (N.D. Cal. May 14, 2007) (delays of 97
8 and 174 days unreasonable); *Forrister v. Woodford*, No. 1:05-CV-00170 LJO WMW HC, 2007 WL
9 809991, *3 (E.D. Cal. March 15, 2007) (delay of 88 days unreasonable); *see also Welch v. Carey*,
10 350 F.3d 1079, 1083 (9th Cir. 2003) (en banc) ("Tolling accommodates effort, not inaction.").

11 Although petitioner is not entitled to "gap" tolling between his court of appeal and
12 supreme court petitions, he is entitled to tolling during the time his state supreme court petition was
13 actually pending, from October 17, 2006 to April 18, 2007, for an additional 183 days. Thus,
14 counting the 65 days petitioner's superior court and court of appeal petitions were pending, in
15 addition to the 183 days his supreme court petition was pending, the AEDPA filing deadline was
16 tolled for a total of 248 days, extending the deadline to March 31, 2007. Petitioner, however, did
17 not file the instant petition until July 13, 2007, three and a half months after the statute of limitations
18 had already expired. Accordingly, the petition should be dismissed with prejudice as untimely.

CONCLUSION

Accordingly, respondent respectfully requests that the petition for writ of habeas corpus be dismissed with prejudice as untimely.

Dated: February 14, 2008

Respectfully submitted,

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PEGGY S. RUFFRA
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/s/ Michele J. Swanson
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EXHIBIT 1

CALIFORNIA APPELLATE COURTS

Case Information



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Opinions

The People v. Muhammad

Division 4

Case Number A104207



Date	Description	Notes
10/16/2003	Notice of appeal lodged/received (criminal).	
12/01/2003	Counsel appointment order filed.	Ross Thomas; ind; 40 days
12/08/2003	Mail returned, unable to forward.	copy of cao to appellant; to file
02/20/2004	Court reporter extension requested.	by CSR Janith Norman #10916; extension requested to 3/17/2004
02/24/2004	Court reporter extension granted.	Reporter: Curtis-Norman, Janith (010916). Deadline extended to: 03/17/04.
03/29/2004	Court reporter extension requested.	by CSR Janith Norman #10916; to 4/7/2004
04/01/2004	Court reporter extension granted.	Reporter: Curtis-Norman, Janith (010916). Deadline extended to: 04/07/04.
04/13/2004	Notice of record completion received.	
04/13/2004	Record on appeal filed.	c-1-r-8
04/13/2004	Probation report filed.	(1)
05/20/2004	Requested - extension of time.	Attorney: Thomas, Ross aob to 6/25/04
05/20/2004	Granted - extension of time.	Attorney: Thomas, Ross aob to 6/25/04
05/20/2004	32.1 letter received from:	Ross Thomas; dated 5/17; missing portions of 4/2 & 4/3/03 rts; & exhibits 4a, 4b, 5a and 7a
06/11/2004	Filed augmented record pursuant to rule 32.1.	r-1: 4/2/03 & 4/3/03 + copies of exhibitis (in grey envelope)
06/11/2004	Exhibits lodged.	(copies) People's 4a, 4b, 5a & 7a; in grey envelope
06/28/2004	Default sent to court	

	appointed counsel.	
07/27/2004	Requested - extension of time.	Attorney: Thomas, Ross aob to 8/27/04
07/28/2004	Granted - extension of time.	Attorney: Thomas, Ross aob to 8/27/04
08/31/2004	Note:	aob coming;
09/02/2004	Motion filed.	to file late aob; from appellant
09/03/2004	Order filed.	granting permission to file late aob
09/03/2004	Appellant's opening brief.	Attorney: Thomas, Ross Party: Muhammad, Malik
09/30/2004	Requested - extension of time.	Attorney: Office of Attorney General rb to 11/3/04
09/30/2004	Granted - extension of time.	Attorney: Office of Attorney General rb to 11/3/04
11/02/2004	Requested - extension of time.	Attorney: Office of Attorney General Party: The People; rb to 12/3/04
11/03/2004	Granted - extension of time.	Attorney: Office of Attorney General Party: The People; rb to 12/3/04
12/03/2004	Requested - extension of time.	Attorney: Office of Attorney General Party: The People; rb to 1/2/05 (Sunday)
12/03/2004	Granted - extension of time.	Attorney: Office of Attorney General Party: The People; rb to 1/2/05, no further contemplated
12/23/2004	Respondent's brief.	Attorney: Office of Attorney General Party: The People
01/12/2005	Appellant's reply brief.	Attorney: Thomas, Ross Party: Muhammad, Malik
01/12/2005	Case fully briefed.	
01/31/2005	Case on conference list.	
01/31/2005	Oral argument waiver notice sent.	
02/01/2005	Record to court for review.	
02/14/2005	Oral argument deemed waived.	
02/22/2005	Submission order filed.	
02/22/2005	Opinion filed.	jgmt affirmed; non-published
02/28/2005	Petition for review in Supreme Court received.	from appellant
04/27/2005	Petition for review denied in Supreme Court.	
05/24/2005	Remittitur issued.	
05/24/2005	Case complete.	
04/17/2006	Shipped to state retention center, box # / list #:	L222

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EXHIBIT 2

CALIFORNIA APPELLATE COURTS

Case Information



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Opinions

The People v. Muhammad
Division 4

Case Number A106795



Date	Description	Notes
06/16/2004	Notice of appeal lodged/received (criminal).	
07/08/2004	Notice of record completion received.	
07/08/2004	Record on appeal filed.	c-2-r-2
07/08/2004	Probation report filed.	(1)
07/09/2004	Counsel appointment order filed.	Thomas Ross; ind; 40 days
08/19/2004	Default sent to court appointed counsel.	
09/20/2004	Requested - extension of time.	Attorney: Thomas, Ross aob to 10/20/04
09/20/2004	Granted - extension of time.	Attorney: Thomas, Ross aob to 10/20/04
10/19/2004	Note:	aob coming;
10/22/2004	Appellant's opening brief.	Attorney: Thomas, Ross Party: Muhammad, Malik
11/18/2004	Requested - extension of time.	Attorney: Office of the Attorney General Party: The People; rb to 12/22/04
11/18/2004	Granted - extension of time.	Attorney: Office of the Attorney General Party: The People; rb to 12/22/04
12/21/2004	Requested - extension of time.	Party: The People rb to 1/21/05
12/23/2004	Granted - extension of time.	Party: The People rb to 1/21/05
01/19/2005	Requested - extension of time.	Party: The People rb to 2/20/05 (Sunday)
01/21/2005	Granted - extension of time.	Party: The People rb to 2/22/05
02/15/2005	Respondent's brief.	Attorney: Office of the Attorney General

		Party: The People
03/08/2005	ARB not filed (time elapsed or notice no brief).	Attorney: Thomas, Ross Party: Muhammad, Malik
03/08/2005	Case fully briefed.	
03/18/2005	Case on conference list.	
03/18/2005	Oral argument waiver notice sent.	
03/17/2005	Record to court for review.	
03/29/2005	Oral argument deemed waived.	
03/29/2005	Opinion filed.	lgmt affirmed, but modified by striking the new 1202.4(b) fine of \$400 and reducing the 1202.45 fine to \$200; trial to prepare amended abstract; non-published
06/01/2005	Remittitur issued.	
06/01/2005	Case complete.	
07/01/2005	Received:	copy of superior court's 6/29 minute order re reduction of restitution fines
04/06/2006	Shipped to state retention center, box # / list #:	L224

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EXHIBIT 3

CALIFORNIA APPELLATE COURTS

Case Information



Supreme
Court

Supreme Court

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PEOPLE v. MUHAMMAD

Case Number S132564

Opinions

C/C
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Date	Description	Notes
02/28/2005	Received premature petition for review	by counsel for appellant (Malik Ali Muhammad).
03/25/2005	Case start: Petition for review filed	
03/28/2005	Record requested	
04/06/2005	Received Court of Appeal record	file jacket/briefs/sealed envelope/envelope of exhibits/two accordian files
04/27/2005	Petition for review denied	

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EXHIBIT 4

Name MALIK ALI MUHAMMADAddress 3-C-GYM 151 LOWC.S.P. P.O. BOX 3471CORCORAN, CALIFORNIA 93212-3471CDC or ID Number V-37398**FILED**
ALAMEDA COUNTY

APR 18 2006

CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

SUPERIOR COURT STATE OF CALIFORNIA

COUNTY OF ALAMEDA

(Court)

MALIK ALI MUHAMMAD

Petitioner

vs.

DERRAL ADAMS, WARDEN

Respondent

C.S.P., CORCORAN

PETITION FOR WRIT OF HABEAS CORPUS

No. 144082

(To be supplied by the Clerk of the Court)

INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(h)(1) of the California Rules of Court [as amended effective January 1, 1999]. Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

This petition concerns:

- ☒ A conviction
 ☐ Parole
☒ A sentence
 ☐ Credits
☐ Jail or prison conditions
 ☐ Prison discipline
☐ Other (specify): _____

1. Your name: MALIK ALI MUHAMMAD
2. Where are you incarcerated? CALIFORNIA STATE PRISON, CORCORAN, CALIFORNIA
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

STALKING

TERRORIST THREATS

- b. Penal or other code sections: 646.9 and 422 CALIFORNIA PENAL CODE
- c. Name and location of sentencing or committing court: SUPERIOR COURT, COUNTY OF ALAMEDA
STATE OF CALIFORNIA, 1225 FALLON STREET, OAKLAND, CA. [REDACTED]
- d. Case number: 144082
- e. Date convicted or committed: APRIL 17, 2003
- f. Date sentenced: MAY 24, 2004
- g. Length of sentence: 32 MONTHS
- h. When do you expect to be released? 12/13/12 (SEE GROUND #8)
- i. Were you represented by counsel in the trial court? ☐ Yes. ☒ No. If yes, state the attorney's name and address:
- _____
- _____

4. What was the LAST plea you entered? (check one)

☒ Not guilty
 ☐ Guilty
 ☐ Nolo Contendere
 ☐ Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury
 ☐ Judge without a jury
 ☐ Submitted on transcript
 ☐ Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

THE PETITIONER WAS DENIED DUE PROCESS OF LAW AND THE FUNDAMENTAL RIGHT TO
CONFRONT AND PROPERLY CROSS-EXAMINE WITNESSES INCLUDING, BUT NOT LIMITED
TO COMPLAINING WITNESS, IVORY JEAN HAAT.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

ON MULTIPLE OCCASIONS (I.E., FEBRUARY 2003 - MARCH 2003) COUNTY OF ALAMEDA SUPERIOR
COURT JUDGE, JON TOLESON ISSUED ORDERS THAT FORBODE PETITIONER (I.E., DEFENDANT)
FROM CONTACTING THE EMPLOYER (CITICORP, INC.) OF COMPLAINING WITNESS,
IVORY JEAN HAAT. AT THE TIMES OF SUCH FORBIDDING, PETITIONER WAS REPRESENTING
HIMSELF (IN PERSON), HENCE WAS PRECLUDED FROM LAWFULLY SEEKING
MATERIAL EVIDENCE TO IMPROVE THE CREDIBILITY OF COMPLAINING WITNESS.
IT MAY BE NOTED THAT SUCH EVIDENCE PERTAINED TO THE ILLEGAL SUBSTANCE ABUSE
ACTIVITIES OF THE COMPLAINING WITNESS AND WAS THE SUBJECT OF THE PRIMARY
DEFENSE TO BE ASSERTED BY PETITIONER, (I.E. THE MOTIVATION OF COMPLAINING
TO INITIATE AND PURSUE CRIMINAL CHARGES AGAINST PETITIONER). IT MAY BE
FURTHER NOTED THAT THE AFORE-MENTIONED COURT ORDER APPLIED TO THIRD
PARTIES AND WAS INCLUSIVE TO THE EXTENT THAT COUNTY OFFICIALS WERE
ORDERED TO CONFISCATE STAMPS FROM PETITIONER, (SEE REPORTER TRANSCRIPT)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

THE RIGHT TO PRESENT A DEFENSE IS A MATTER OF CONSTITUTIONAL SIGNIFICANCE. WHEN
THE RIGHT IS IMPROPERLY RESTRICTED, THE IMPACT UPON A DEFENDANT'S FUNDAMENTAL
RIGHT TO A FAIR TRIAL IS PROFOUND.
UNITED STATES CONSTITUTION (6TH AMENDMENT) (SEE ADDITIONAL PAGE)

Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION FOUR

b. Result: JUDGMENT AFFIRMED c. Date of decision: FEBRUARY 22, 2005

d. Case number or citation of opinion, if known: A104207

e. Issues raised: (1) INSUFFICIENCY OF THE EVIDENCE

(2) _____

(3) _____

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

ROSS THOMAS 4104 24TH STREET, NO. 411, SAN FRANCISCO, CA. 94114

Did you seek review in the California Supreme Court? ☒ Yes. ☐ No. If yes, give the following information:

a. Result: PETITION FOR REVIEW DENIED b. Date of decision: APRIL 27, 2005

c. Case number or citation of opinion, if known: N/A

d. Issues raised: (1) N/A

(2) N/A

(3) N/A

If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

INEFFECTIVE LEGAL REPRESENTATION. PETITIONER REQUESTED THAT CLAIMS
BE MADE.

Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal. App.3d 500 [125 Cal. Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

NOT APPLICABLE

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

1 (GROUND 3B - CONTINUED)

2 ADDITIONALLY, CONSISTENT WITH GUIDELINES AS SET FORTH WITHIN

3 THE CASE OF H-CHH ASSOCIATES V CITIZENS FOR REPRESENTATIVE

4 (GOVERNMENT (1987) 193 C.A.2 1193, THE LETTERS (EXHIBIT B)

5 1) DID NOT INTERFERE WITH THE CONDUCTING OF BUSINESS;

6 2) DID NOT INTERFERE WITH THE USE OF PROPERTY;

7 3) DID NOT IMPED MOVEMENT OF CLIENTELE (CUSTOMERS)

8 4) DID NOT BLOCK ACCESS TO ANY BUSINESS

9 5) DID NOT PRODUCE ANY NOISE

10 6) CREATED NO DISTURBANCE

11 7) DID NOT ENTAIL HARASSMENT OF PATRONS

12 FINALLY, REGARDING A POTENTIAL ASSERTION BY RESPONDENT

13 THAT SAID LETTERS WERE DESIGNED TO HARASS COMPLAINING

14 WITNESS, (TERM/CONDITION #14 - EXHIBIT A), IT IS A WELL

15 DEFINED LEGAL PRINCIPLE THAT WHEN SCRUTINIZING THE

16 CONSTITUTIONALITY OF AN INFLUENCEMENT (RESTRAINT) TO THE

17 FUNDAMENTAL RIGHT OF FREE SPEECH, ONE MUST NOT CONSIDER

18 THE UNDERLYING MOTIVE OF THE SPEAKER. (SMITH V SILVER (1983)

19 149 C.A.2 400)

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7. Ground 4 (if applicable):

THE REVOCATION OF THE PROBATION OF PETITIONER WAS PREDICATED UPON AN
UNCONSTITUTIONALLY VAGUE AND AMBIGUOUS TERM AND CONDITION OF PROBATION

a. Supporting facts:

SEE #3a OF PETITION

b. Supporting cases, rules, or other authority:

"THE WORD 'EMPLOYMENT' AS DEFINED BY THE WEBSTER'S II (NEW RIVERSIDE)
DICTIONARY IS 1) THE ACT OF EMPLOYING OR STATE OF BEING EMPLOYED;
2) AN OCCUPATION OR ACTIVITY. IN THAT REGARD, IT HAS BEEN CLEARLY ESTABLISHED
THAT A STATUTE (OR TERM AND CONDITION OF PROBATION) THAT EITHER FORBIDS OR
REQUIRES THE DOING OF AN ACT IN TERMS SO VAGUE THAT MEN OF COMMON
(SEE ADDITIONAL PAGE)

1 (GROUND 4b - CONTINUED)

2 INTELLIGENCE MUST NECESSARILY GUESS AT ITS MEANING AND DIFFER

3 TO ITS APPLICATION VIOLATES THE FIRST ESSENTIAL OF THE PROCESS

4 PEOPLE v LOPEZ (1992) 66 C.A.4 615; PEOPLE v REINERTSON (1994)

5 178 C.A.3 320; PEOPLE v ACUNA (1997) 14 C.A.4 1090; PEOPLE v HEITZMAN

6 (1994) 9 C.A.4 189; PEOPLE v GARCIA (1993) 19 C.A.4 97; PEOPLE v HERNANDEZ

7 (1991) 226 C.A.3 1374.

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7. Ground 5 (if applicable):

THE REVOCATION OF THE PROBATION OF PETITIONER AND SUBSEQUENT IMPOSITION
OF SENTENCE WAS PREDICATED UPON AN UNCONSTITUTIONALLY OVERBROAD TERM
AND CONDITION OF PROBATION

a. Supporting facts:

SEE #3 OF PETITION

b. Supporting cases, rules, or other authority:

WHERE A CONDITION OF PROBATION REQUIRES A WAIVER OF PREVIOUS CONSTITUTIONAL
RIGHTS, THE CONDITION MUST BE NARROWLY DRAWN; TO THE EXTENT IT IS OVERBROAD IT IS
NOT REASONABLY RELATED TO THE COMPELLING STATE INTEREST IN REFORMATION AND
REHABILITATION AND IS AN UNCONSTITUTIONAL RESTRICTION ON THE EXERCISE OF
FUNDAMENTAL CONSTITUTIONAL RIGHTS, PEOPLE V KELLER (1978) 76 C.A.3 921;
(SEE ADDITIONAL PAGE)

1 (GROUND 5b-CONTINUED)
2 PEOPLE v BURDEN (1988) 205 C.A.3 827; PEOPLE v KIDDOO (1996) 225 C.A.3 922;
3 PEOPLE v HACHLER (1993) 13 C.A.4 1049; PEOPLE v GARCIA (1993) 19 C.A.4 1049;
4 PEOPLE v ARUNA (1997) 14 C.A.4 1090; PEOPLE v POINTER (1984) 151 C.A.3 1128;
5 PEOPLE v ARVANITIS (1972) 17 C.3 1052. IN THE PRESENT MATTER, WHEN
6 ONE CONSIDERS THE APPLICABILITY OF THE TERM OF PROBATION AT ISSUE;
7 (i.e. #15), AS BEING INCLUSIVE OF ALL CITIGROUP LOCATIONS (WORLDWIDE)
8 AND ALL LETTERS (REGARDLESS OF THE CONTENT OF SAME) ITS OVERBREADTH
9 IS INHERENTLY APPARENT.

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7. Ground 6 (if applicable):

THE REVOCATION OF THE PROBATION OF PETITIONER AND SUBSEQUENT IMPOSITION
OF SENTENCE WAS VIOLATIVE OF THE DOCTRINE OF "SEPARATION OF POWERS."

a. Supporting facts:

THE PROBATIONARY STATUS OF PETITIONER WAS TERMINATED AND PERMANENTLY
REVOKED DUE TO HIS LAWFUL (I.E. BENEFIT TO SOCIETY AND MATTER OF PUBLIC
INTEREST) ACTION(S) OF REPORTING (I.E. PUBLISHING) THE CRIMINAL CONDUCT OF
COMPLAINING WITNESS, IVORY JEAN HART. IT MAY BE NOTED THAT AT THE TIME
OF SAID REVOCATION, (SEE #3a), THE COURT AND PROSECUTOR WERE IN POSSESSION
OF PHOTOGRAPHIC EVIDENCE THAT DEPICTED COMPLAINING WITNESS IN THE PROCESS
OF ENGAGING IN SUCH ILLEGAL CONDUCT. THUSLY, THE ALLEGATIONS OF PETITIONER
WERE CONFIRMED TO THOSE WITH WHOM THE POWER AND AUTHORITY TO
ADDRESS SUCH ISSUES RESTED.

b. Supporting cases, rules, or other authority:

THE CONSTITUTION OF THE UNITED STATES OF AMERICA MANDATES THAT THE
AUTHORITY TO GOVERN IS TRIPARTITE, I.E., LEGISLATURE, JUDICIARY, EXECUTIVE.
IN THE PRESENT MATTER WE MUST ONLY CONSIDER THE FACT THAT ALL
COMMUNICATIONS TO THE EMPLOYER OF THE COMPLAINING WITNESS
DISCLOSED HER CRIMINAL CONDUCT. GIVEN THE FACT THAT SUCH CONDUCT HAS
BEEN DECEED CRIMINAL (SEE ADDITIONAL PAGE)

1 (GROUND 6B - CONTINUED)

2 BY LEGISLATIVE ENACTMENTS, THE ACTIONS BY THE COURT (I.E., JUDICIARY)

3 REVOCATION AND TERMINATION OF PETITIONER'S PROBATION EXCEEDED

4 ITS JUDICIAL AUTHORITY. IT MUST BE NOTED THAT THE COURT DID NOT

5 EXERCISE ITS JURISDICTIONAL AUTHORITY TO "INTERPRET" THE LAWS,

6 (I.E., CALIFORNIA HEALTH AND SAFETY CODE), BUT UNDERTOOK THE

7 UNPRECEDENTED AND ARGUABLY SELECTIVELY ILLEGAL INITIATIVE OF

8 DECRETING THAT SAID ENACTMENTS BY THE STATE LEGISLATURE,

9 ALTHOUGH APPLICABLE TO SOCIETY AT LARGE, DID NOT APPLY TO

10 COMPLAINING WITNESS. THEREFORE, ALTHOUGH IT IS A BASIC

11 LEGAL PRINCIPLE THAT A CRIMINAL ACT, IN EFFECT, VICTIMIZES

12 SOCIETY AT LARGE, PETITIONER, A MEMBER OF SOCIETY, WAS

13 INCARCERATED FOR EXPOSING CRIMINAL CONDUCT OF WHICH

14 HE WAS A VICTIM.

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7. Ground 7 (if applicable):

THE COURT EXCEEDED ITS JURISDICTIONAL AUTHORITY.

a. Supporting facts:

ON JANUARY 13, 2004, THE COURT (I.E. COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DEPARTMENT 3), ISSUED A "MODIFIED" PROTECTIVE ORDER IN CASE No. 144082, IT (I.E. PROTECTIVE ORDER) CLEARLY INDICATED THAT IT "TAKES PRECEDENT OVER ANY CONFLICTING COURT ORDER" (SEE EXHIBIT C) ALTHOUGH THE PROTECTIVE ORDER PROHIBITED WRITTEN CONTACT WITH THE PROTECTED PERSONS NAMED THEREIN, IT DID NOT PROHIBIT CONTACT (VERBAL OR WRITTEN) WITH THE EMPLOYER OR "EMPLOYMENT" OF COMPLAINING WITNESS, IVORY JEAN HART, NOR ANY OTHER PERSON NAMED THEREIN, HENCE, IT WOULD BE IN CONFLICT WITH ANY PREVIOUSLY ISSUED PROTECTIVE ORDER OR PROBATIONARY ORDER THAT PURPORTS TO RESTRICT SUCH CONTACT. FURTHERMORE, THE TERMS OF THE PROTECTIVE ORDER, (JANUARY 13, 2004), ARE REINFORCED BY THE ALAMEDA COUNTY PROBATION DEPARTMENT "COURT DISPOSITION" REPORT (SEE EXHIBIT D) AS LIKEWISE, IT MAKES NO REFERENCE REGARDING THE PROHIBITION OF WRITTEN COMMUNICATIONS TO THE "EMPLOYMENT" OF THE COMPLAINING WITNESS.

b. Supporting cases, rules, or other authority:

IT IS A CLEARLY ESTABLISHED LEGAL PRINCIPLE THAT AN ACT (I.E. ORDER) IN EXCESS OF THE JURISDICTION OF THE ACTING COURT IS VOID AND CANNOT BE RATIFIED BY WAIVER, CONSENT OR ESTOPPEL. PEOPLE V. KIDDOO (1990) 225 C.A.2 922, IN RE: BERRY (1969) 68 C.2 137, FORTINBURY V. SUPERIOR COURT (1940) 16 C.2 405. IT IS THEREFORE APPARENT THAT THE COURT IN THE PRESENT (SEE ADDITIONAL PAGE)

1 (GROUND 7 b - CONTINUED)

2 MATTER ACTED IN EXCESS OF ITS JURISDICTION WHEN IT REVOKED

3 THE PROBATION OF PETITIONER AND SUBSEQUENTLY IMPOSED

4 SENTENCE, AS ITS UNDERLYING AUTHORITY FOR SO DOING HAD BEEN

5 ABROGATED BY THE PROVISIONS OF THE PROTECTIVE ORDER OF

6 JANUARY 13, 2004. FURTHERMORE, THE EXTENT OF JURISDICTIONAL

7 MALFEASANCE IS EXACERBATED, AND PARTICULARLY EGREGIOUS

8 IN NATURE, WHEN ONE CONSIDERS THAT THE JURISDICTIONAL

9 EXCESS OF AUTHORITY WAS PERPETRATED BY THE IDENTICAL

10 COURT THAT HAD DECREED THE PREVIOUS JURISDICTIONAL

11 PERIMETERS.

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7. Ground 8 (if applicable):

THE IMPOSITION OF SENTENCE, I.E., 32 MONTHS STATE PRISON CONFINEMENT, AND POTENTIAL FOR FUTURE ENHANCEMENT(S) CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT

a. Supporting facts:

ON MAY 24, 2004, PETITIONER WAS SENTENCED TO SERVE A TERM OF 32 MONTHS CONFINEMENT IN CALIFORNIA STATE PRISON. (EXHIBIT E). THE SENTENCE ALSO SUBJECT PETITIONER TO ENHANCEMENT(S) PURSUANT TO CALIFORNIA PENAL CODE § 1170.12. ON APRIL 20, 2005, PETITIONER WAS CONVICTED OF VIOLATIONS OF CALIFORNIA PENAL CODE § 646.9, ET. SEQ. (MARIN COUNTY SUPERIOR COURT) WHEREUPON ON JUNE 24, 2005 AND PURSUANT TO CALIFORNIA PENAL CODE § 1170.12, ENHANCEMENTS WERE IMPOSED. AS A RESULT OF THE IMPOSITION OF THE UPPER (AGGRAVATED) TERM AND ENHANCEMENT(S) PURSUANT TO CALIFORNIA PENAL CODE SECTION 1170.12, PETITIONER WAS SENTENCED TO SERVE A PRISON TERM OF TEN (10) YEARS. IT MAY BE NOTED THAT PETITIONER WAS NOT CONVICTED OF, NOR ALLEGED TO HAVE COMMITTED AN ACT OF VIOLENCE, NOR TO HAVE UTILIZED OR DISPLAYED (I.E., POSSESSED) A DANGEROUS WEAPON OF ANY TYPE AT ANYTIME DURING THE PERIOD(S) OF THE ALLEGED OFFENSES. ADDITIONALLY, THE ONLY "CRIMINAL" ACT THAT WAS ALLEGED TO HAVE OCCURRED WITHIN THE JURISDICTIONAL BOUNDARIES OF MARIN COUNTY WAS THAT OF A LETTER, (EXHIBIT F), DIRECTED TO CITIGROUP, INC. HEADQUARTERS, LONG ISLAND, NEW YORK. IT IS FURTHER NOTED THAT PETITIONER HAD PREVIOUSLY BEEN ACQUITTED OF ANY WRONG DOING REGARDING SUCH LETTER BY A CALIFORNIA DEPARTMENT OF CORRECTIONS SENIOR HEARING OFFICER (EXHIBIT G).

b. Supporting cases, rules, or other authority:

"CONSIDERING THE TOTALITY OF CIRCUMSTANCES," THE IMPOSITION OF SENTENCE BY THE SUPERIOR COURT OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA DID AND CONTINUES TO SUBJECT PETITIONER TO CRUEL AND UNUSUAL PUNISHMENT AS PROHIBITED BY THE 8TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

7. Ground 9 (if applicable):

THE FRAUDATION OF THE PROBATION OF PETITIONER AND SUBSEQUENT
IMPOSITION OF SENTENCE WAS AN OBSTACLE OF THE ADMINISTRATION
OF JUSTICE AND THEREFORE ILLEGAL.

a. Supporting facts:

SEE #6 a OF PETITION

b. Supporting cases, rules, or other authority:

CALIFORNIA PENAL CODE § 96.5 (OBSTRUCTION OF JUSTICE BY JUDICIAL OFFICER)
CALIFORNIA PENAL CODE § 136.1, ET. SEQ. (INTIMIDATION OF WITNESS)
CALIFORNIA PENAL CODE § 182(a)(5) (CONSPIRACY TO OBSTRUCT JUSTICE)
CALIFORNIA CIVIL CODE § 51.7; 52(b) AND (43) (VIOLATION OF PETITIONER'S CIVIL RIGHTS)
U.S.C. TITLE 42 (VIOLATION OF PETITIONER'S CIVIL RIGHTS)

- 1 (GROUND 1B - CONTINUED)
- 2 U.S. CONSTITUTION (5TH AMENDMENT)
- 3 CALIFORNIA CONSTITUTION, ARTICLE I § 28
- 4 CALIFORNIA CONSTITUTION, ARTICLE I § 15
- 5 OLDEN V KENTUCKY (1988) 488 U.S. 277
- 6 POINTER V TEXAS (1965) 380 U.S. 400
- 7 FRANKLIN V HENRY (9TH C.R. 1997) 122 F.3 1270
- 8 WASHINGTON V TEXAS 388 U.S. 514
- 9 PENNSYLVANIA V PITTSBURGH 480 U.S. 39
- 10 FRANKLIN V DONICAN 884 F. SUPP. 1435
- 11 CRANE V KENTUCKY 476 U.S. 683
- 12 U.S. V AGUES 427 U.S. 97
- 13 KYLE V WHITLEY 514 U.S. 419
- 14 U.S. V RAGLEY 473 U.S. 667
- 15 ROCK V ARKANSAS 483 U.S. 44
- 16 IN RE STEELE 32 C4 682
- 17 Furthermore, THE U.S. SUPREME COURT HAS HELD THAT A FUNDAMENTAL
- 18 COMPONENT OF THE RIGHT TO RETIARD IS THE RIGHT TO FULLY CROSS
- 19 EXAMINE WITNESSES (OFFERED) AGAINST THE DEFENDANT AS THE
- 20 RIGHT TO PRESENT AN ADEQUATE AND EFFECTIVE DEFENSE IS A MATTER
- 21 OF CONSTITUTIONAL SIGNIFICANCE. WHEN THE RIGHT IS IMPROPERLY
- 22 RESTRICTED, THE IMPACT UPON A DEFENDANT'S RIGHTS IS PROFOUND.
- 23 CHAMBERS V MISSISSIPPI (1973) 410 U.S. 284. CLEARLY, IN THE
- 24 CASE HEREIN, (PREVIOUSLY DISCUSSED RESTRICTIONS), THE WRONGFUL
- 25 IMPEDIMENTS PREVENTED PETITIONER FROM ASCERTAINING A PROPER
- 26 AND ADEQUATE DEFENSE AND WERE NOT HARMLESS BEYOND A
- 27 REASONABLE DOUBT WHEN CONSIDERED IN LIGHT OF HIS IN PERSONA
- 28 STATUS. DELAWARE V VAN ARDSDALE 475 US 673.

7. Ground 3 (if applicable):

THE REVOCATION OF PETITIONER'S PROBATION AND IMPOSITION OF SENTENCE VIOLATED HIS FUNDAMENTAL (CONSTITUTIONAL) RIGHT TO FREE SPEECH.

a. Supporting facts:

ON MAY 24, 2004, THE PROBATION OF PETITIONER (CASE NO 144082) WAS PERMANENTLY REVOKED AND TERMINATED BY COUNTY OF ALAMEDA, SUPERIOR COURT JUDGE, KENNETH MARK BURE (DEPARTMENT 3), WHEREUPON PETITIONER WAS SENTENCED TO SERVE A TERM OF 36 MONTHS CONFINEMENT IN CALIFORNIA STATE PRISON. THE BASIS FOR THE REVOCATION OF THE PROBATION OF PETITIONER WERE ALLEGED VIOLATION(S) OF TERMS AND CONDITIONS #14 AND #15 (SEE EXHIBIT A). IT MUST BE NOTED THAT THE LETTERS THAT WERE THE SUBJECT OF CONTENTION WERE NOT DIRECTED TO, JUDY JEAN HART, (i.e., COMPLAINING WITNESS) NOR TO HER RESIDENCE OR THE LOCATION WHERE SHE PERFORMED HER EMPLOYMENTAL DUTIES. (EXHIBIT B) IT MUST ALSO BE NOTED THAT THE ABOVE REFERENCED LETTERS CONTAINED NO PROFANE OR FOUL LANGUAGE, EXPLICIT OR IMPLICIT THREATS TO INFLECT PHYSICAL HARM NOR LANGUAGE LIKELY TO PRODUCE A VIOLENT REACTION. TO THE CONTRARY, ALL LETTERS PROVIDED INFORMATION WITHIN THE PERSONAL KNOWLEDGE OF PETITIONER REGARDING CRIMINAL ACTS THAT ARE PROHIBITED BY THE CALIFORNIA HEALTH AND SAFETY CODE, HENCE, WERE A BENEFIT TO SOCIETY AT LARGE.

b. Supporting cases, rules, or other authority:

"THE RIGHT TO SPEAK FREELY SHALL NOT BE ABRIDGED (UNITED STATES CONSTITUTION, 1ST AMENDMENT). ADDITIONALLY, THE CALIFORNIA STATE CONSTITUTION FORTIFIES THIS FUNDAMENTAL RIGHT BY MANDATING AS FOLLOWS: "EVERY PERSON MAY FREELY SPEAK, WRITE AND PUBLISH HIS OR HER SENTIMENTS ON ALL SUBJECTS, BEING RESPONSIBLE FOR THE ABUSE OF
(SEE ADDITIONAL PAGE)

1 (GROUND 3b - CONTINUED)

2 THIS RIGHT, A LAW MAY NOT RESTRAIN OR ABIDE LIBERTY
 3 OF SPEECH OR PRESS. (CALIFORNIA CONSTITUTION ART I § 2)
 4 ALTHOUGH RESPONDENT MAY ASSERT THAT DUE TO THE PROBATIONARY
 5 STATUS OF PETITIONER, HE HAD WAIVED AND/OR FORFEITED HIS
 6 CONSTITUTIONAL RIGHT OF FREE SPEECH, ONE MUST ONLY LOOK TO
 7 THE CALIFORNIA SUPREME COURT DECISION OF PEOPLE v ARVANITES,
 8 (1972) 17 C3 1052, TO COMPREHEND THE INADEQUACY OF THAT ("LEGAL")
 9 ASSERTION. IN ARVANITES, WHEREIN THE COURT CONSIDERED THE
 10 CONSTITUTIONALITY OF PROBATION CONDITIONS THAT INVOLVED THE
 11 PRIOR RESTRAINT OF OTHERWISE FREE SPEECH ACTIVITIES
 12 (INCLUDING DISSEMINATION OF WRITTEN MATERIAL) THE COURT
 13 WAS CLEAR AND DECISIVE REGARDING THE UNCONSTITUTIONALITY
 14 OF SAME. THIS POSITION WAS SOLIDIFIED BY THE COURT OF APPEAL
 15 IN THE CASE OF PEOPLE v LOPEZ (1998) 66 C.A.4 615 WHEN IT HELD
 16 THAT A CONDITION OF PROBATION THAT INVOLVED SPEECH "MAY
 17 BURDEN NO MORE THAN IS NECESSARY TO SERVE AN IMPORTANT
 18 GOVERNMENTAL INTEREST". IN REGARDS TO THE PRESENT MATTER,
 19 IT WOULD APPEAR AS THOUGH ONE WOULD BE HARD "PRESSED" TO
 20 EXTRACT AN IMPORTANT GOVERNMENTAL INTEREST THAT SUPPORTS
 21 AND/OR JUSTIFIES THE CONCEALMENT OF CRIMINAL CONDUCT
 22 BE IT (CONCEALMENT) OF CRIME(S) PERPETRATED BY COMPLAINING
 23 WITNESS, IVORY JEAN HART, OR THOSE OF ANY OTHER INDIVIDUAL.
 24 TO THE CONTRARY, THE GOVERNMENT HAS A COMPELLING STATE
 25 INTEREST (AND RESPONSIBILITY) TO PROTECT THE SAFETY OF THE
 26 PUBLIC FROM THE DETRIMENT TO SOCIETY THAT EMANATES FROM THE
 27 COMMISSION OF CRIMINAL ACTS. PLANNED PARENTHOOD v OPERATION
 28 RESCUE (1996) 50 C.A.4 290; PARADISE HILLS v PRAGER (1991) 235 C.A.3 1528.

(SEE ADDITIONAL SHEET)

1 PRAYER FOR RELIEF

2
3 PETITIONER IS WITHOUT REMEDY SAVE BY WRIT OF HABEAS CORPUS.

4
5 WHEREFORE, PETITIONER PRAYS THE COURT:

6 1. ISSUE ORDER TO SHOW CAUSE;

7 2) DECLARE PETITIONER'S RIGHTS;

8 3) CONDUCT AN EVIDENTIARY HEARING;

9 4) ISSUE OF WRIT OF HABEAS CORPUS;

10 5) DECLARE SENTENCE IMPOSED IN COUNTY OF ALAMEDA, SUPERIOR CT. CASE #144082 VOID;

11 6) APPOINT COUNSEL FOR PETITIONER; AND

12 7) GRANT ANY OTHER AND FURTHER RELIEF THE COURT DEEMS PROPER.

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15 DATED: APRIL 12, 2006

RESPECTFULLY SUBMITTED,

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17 MALIK ALI MUHAMMAD

18 MALIK ALI MUHAMMAD

19 PETITIONER
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VERIFICATION

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3 I, MALIK ALI MUHAMMAD, STATE:
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5 I AM THE PETITIONER IN THIS ACTION. I HAVE READ THE
6 FOREGOING PETITION FOR WRIT OF HABEAS CORPUS AND THE FACTS
7 STATED THEREIN ARE TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO
8 MATTERS THAT ARE THEREIN STATED ON MY OWN INFORMATION
9 AND BELIEF, AND AS TO THOSE MATTERS I BELIEVE THEM TO BE
10 TRUE.

11 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING
12 IS TRUE AND CORRECT AND THAT THIS DECLARATION WAS EXECUTED
13 AT FORTY, CALIFORNIA ON APRIL 12, 2006.
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16 Malik Ali Muhammad
17 PETITIONER
CDC # V-37398
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1 MALIK ALI MUHAMMAD

2 3-C-Gym 151 Low

3 C.S.P. P.O. Box 3471

4 CORCORAN, CA. 93212-3471

5 IN PRO PER

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF ALAMEDA

8

9 IN RE: MALIK ALI MUHAMMAD REQUEST FOR APPOINTMENT OF

10 COUNSEL AND DECLARATION

11 ON HABEAS CORPUS OF INDIGENCY

12 NO:

13 I, MALIK ALI MUHAMMAD, DECLARE THAT I AM THE PETITIONER

14 TO THE ABOVE-REFERENCED MATTER, THAT I AM INCARCERATED AT

15 CALIFORNIA STATE PRISON, CORCORAN, CA., AND THAT I AM INDIGENT AND

16 UNABLE TO AFFORD COUNSEL. MY TOTAL ASSETS ARE \$0 AND MY

17 INCOME IS \$0 PER MONTH.

18 I HEREBY REQUEST THAT COUNSEL BE APPOINTED IN THIS MATTER SO

19 THAT MY INTEREST MAY BE PROTECTED BY THE PROFESSIONAL ASSISTANCE

20 REQUIRED.

21 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE

22 AND CORRECT AND THAT THIS DECLARATION WAS EXECUTED ON

23 APRIL 12, 2006.

24 Malik Ali Muhammad

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000246

Th(10/97)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
 Date: August 14, 2003 Hon. KENNETH MARK BURR, Judge Dept. No. 003
 Jennifer DiMercurio, Dep. Clk.
 Janith Norman, Reporter

PEOPLE OF THE STATE OF CALIFORNIA Counsel appearing Mark McCannon, Deputy
 for Plaintiff District Attorney

vs. Counsel appearing Pro Per
 for Defendant

MALIK ALI MUHAMMAD
 Aka Henry Myers
 (ALK087 2288300)

Defendant

NATURE OF PROCEEDINGS: RECEIPT (review) OF PROBATION REPORT No. 144082
 REPORT and SENTENCE

Matter comes on calendar this date having been before this Court May 29, 2003 for 1203.03 Referral and July 15, 2003 for Referral to Probation to determine conditions of Probation IF probation granted.

Court, counsel, and defendant present.

Court and counsel engage in extensive colloquy as set forth on the record.

Certain people (Lieutenant Rutherford Hart, Officer Holly Hart, Elma Owens, Ivory Hart) address the Court on behalf of the people as set forth on the record.

Court and counsel engage in further colloquy.

The defendant having been convicted on April 17, 2003 by VERDICT OF JURY of the offenses of crimes of felonies, to wit:

STALKING, a violation of Section 646.9(a) of the Penal Code of California as charged in COUNT ONE of the Information and

TERRORIST THREATS, a violation of Section 422 of the Penal Code of California as charged in COUNT TWO,

Application for Probation is GRANTED.

The Court having read and considered the Report of the Probation Officer and 1203.03 Return, **imposition of sentence is suspended** for a period of **FIVE YEARS** during which time the defendant is placed under the care, custody and control of the Probation Officer of Alameda, subject to the following terms and conditions, to wit: Defendant shall:

000347

PEOPLE OF THE STATE OF CALIFORNIA
VS
MALIK MUHAMMAD

August 14, 2003

144082

1. Serve the first **277 days** of said probationary period in the **Alameda County Jail** with **Credit for time of: 277 days TOTAL, County Jail Time is DEEMED SERVED;**
2. Report to and follow the instructions of the Probation Officer and follow all directive of the Probation Officer obey all laws of the community and be of good conduct;
3. Seek and maintain regular employment, if change place of employment of residence notify Probation Officer of any change within **seven days;**
4. Not use, possess, or in any way traffic in narcotics or dangerous drugs, and not associate with any person using or trafficking narcotics or dangerous drugs;
5. NO ALCOHOL;
6. NO Marijuana;
7. Submit to such education, counseling, treatments or tests as directed by the Probation Officer including, but not limited to urinalysis;
8. Participate 12th Step Program and substance abuse counseling as directed by the court/or Probation Officer;
9. Do not associate with any person known to you to have a criminal record;
10. If arrested, give your own true name, address and date of birth t the arresting officer and report in writing to the Probation Officer within **seven days** of such arrest;
11. Submit to search and seizure by any Probation Officer or any other law enforcement officer at any time of the day or night, with or without a search warrant: vehicle, residence, person or any property under your control;
12. Do not own, use or possess any firearm or any other dangerous or deadly weapon (including ammo and explosives;
13. Do not threaten, annoy, molest, or stalk Ivory Hart, her family members and/or friends;
14. Do not commit any acts of violence, sexual abuse, or harassment against victim or any family members/friends;
15. No letters to victim's employment;

PEOPLE OF THE STATE OF CALIFORNIA
VS
MALIK MUHAMMAD

August 14, 2003

144082

000248

16. Stay away 100 yards from the home, school, and/or place of employment of Ivory Hart, for a period of **TEN (10) YEARS** pursuant to **646K** of the Penal Code;
17. Enter **Anger Management** and/or mental health counseling, follow all treatment directions of therapist, including medications, and do not terminate treatment without the permission of the therapist, Probation Officer, and the Court;
18. Submit blood and saliva samples pursuant to Section **296** of the Penal Code;
19. Pay **Probation Investigation Fee** of **\$100.00**;
20. Probation Supervision Fee pursuant to Section 1203.1b of the Penal Code of \$50.00 is **RESERVED**;
21. Pay **\$200.00 Restitution Fine** pursuant to **1202.4(b)**;
22. **RESTITUTION** to **VICTIM** is **RESERVED**;

BAIL is EXONERATED

Defendant is **advised** of **APPEAL RIGHTS** as set forth on the record.

Court orders Progress Report every 90 days and each Progress Report shall remain before Judge Burr. Matter is **continued** to **November 18, 2003** at 9:00 a.m. in Department Three (3) **JUDGE BURR** for **PROGRESS REPORT**.

It is further **ORDERED** that the defendant is **RELEASED this action ONLY**.

PAGE 3 of 3

C00435

(RCD - 10/01)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

FILED
ALAMEDA COUNTY

EXHIBIT RECORD

MAY 24 2004

PROBATION HEARING

CLERK OF THE SUPERIOR COURT

Honorable KENNETH MARK BURR

By Jennifer DiMercurio Deputy

Jennifer DiMercurio, Deputy Clerk

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff

Dept. No. 002

vs.

MALIK ALI MUHAMAD, Defendant

Case No. 144082

The following exhibits were marked for identification and/or introduced in evidence in the above action:

People (P) or Defendant (D)	Number or Letter	DESCRIPTION OF EXHIBITS	Date Marked for Identification	Date Admitted in Evidence
People	1	PREMARKED Copy of, 2 pages, COMPLAINT to Ethics Hotline Caller Malik Muhammad	May 24, 2004	May 24, 2004
People	2	PREMARKED 1-13-04 copy of envelope addressed to Citibank and copy of 10 page LETTER and attachments received 01-16-04 ATTN: Mr., Stanley Weil/Chief Executive Officer RE: Ms. Ivory Jean Hart	May 24, 2004	May 24, 2004
People	3	PREMARKED 01-16-04 copy of envelope addressed to Citibank and copy of 2 page LETTER and attachment received 01-21-04 ATTN: Mr. Stanley Weil/Chief Executive Officer RE: Ms. Ivory Jean Hart	May 24, 2004	May 24, 2004
See page 2	See pg 2	See page 2	See page 2	See page 2

(Original: place in exhibit envelope)

(Copy: file stamp as the original; register of actions)

PV EXH RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

EXHIBIT RECORD - Continuation Page**000436**

Defendant:

Case No.:

People (P) or Defendant (D)	Number or Letter	DESCRIPTION OF EXHIBITS	Date Marked for Identification	Date Admitted in Evidence
See page 1	See page 1	See page 1	See page 1	See page 1
DEFT	A	Copy of, 1 page, COURT DISPOSITION and POST-IT with handwritten note from V. Brooks	May 24, 2004	May 24, 2004
DEFT	B	Copy of, 3 pages, MINUTE ORDER of August 14, 2003 reflecting probation terms and conditions	May 24, 2004	May 24, 2004
DEFT	C	Program Attendance CARD labeled Neighborhood Service Agency Support Group Attendance Verification Card	May 24, 2004	May 24, 2004
DEFT	D	01-22-04 copy of, 1 page, LETTER from: Malik Muhammad to : Alameda County District Attorney Attn: Inspector Corey White	May 24, 2004	May 24, 2004

12/22/04 WED 15:04 FAX 510531 11

CITIBANK, FSB

002

210

MC-220

Superior Court of California County of Alameda 1225 Fallon Street Oakland, California 94612-4280 Rene C. Davidson Courthouse		ameda	FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY JAN 13 2004 CLERK OF THE SUPERIOR COURT By <u>JENNIFER DIMERCURIO</u> Deputy
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: <u>MALIK ALI MUHAMMAD</u>			
PROTECTIVE ORDER IN CRIMINAL PROCEEDING (CLETS) (Penal Code, § 136.2)		CASE NUMBER: <u>144082</u>	
<input type="checkbox"/> ORDER PENDING TRIAL <input type="checkbox"/> ORDER POST TRIAL PROBATION CONDITION		<input checked="" type="checkbox"/> MODIFICATION	

THIS ORDER TAKES PRECEDENCE OVER ANY CONFLICTING COURT ORDER

PERSON TO BE RESTRAINED (Name): <u>MALIK ALI MUHAMMAD</u> Sex: <input checked="" type="checkbox"/> M <input type="checkbox"/> F Ht.: <u>6'2"</u> Wt.: <u>200</u> Hair Color: <u>BLK</u> Eye Color: <u>BLK</u> Race: <u>BLK</u> Age: <u>57</u> Date of Birth: <u>11/28/45</u> <input type="checkbox"/> The defendant is a peace officer with _____ Department.	
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1. This proceeding was heard on (date): AUG. 14, 2003 at (time): 9:05 in Dept.: 3 Room: N/A
 by judicial officer (name): _____
2. ☒ Defendant was personally present at the court hearing, and no additional proof of service of the restraining order is required.

GOOD CAUSE APPEARING, THE COURT ORDERS

3. The above-named defendant
- shall not annoy, harass, strike, threaten, sexually assault, batter, stalk, destroy personal property of, or otherwise disturb the peace of the protected persons named below.
 - shall not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
 - must surrender to local law enforcement or sell to licensed gun dealer any firearm in or subject to his or her immediate possession or control within
 - ☒ 24 hours after issuance of this order
 - ☐ 48 hours after service of this order
 - ☐ other (specify): _____

The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order.

- ☒ shall have no personal, telephonic, or written contact with the protected persons named below.
- ☒ shall have no contact with the protected persons named below through a third party, except an attorney of record.
- ☒ shall not come within 100 yards of the protected persons named below.
- ☐ shall have peaceful contact with the protected persons named above for court-ordered visitation as ordered in prior or subsequent Family Court and Juvenile Court orders as an exemption to the "no contact" and "stay away" provisions of this order.

4. ☒ The protected person may record any prohibited communications made to him or her by the restrained person.

5. NAMES OF PROTECTED PERSONS:

INCLUDING EUNARISE OWENSON

6. Other orders including stay-away orders from:

PROTECTED PERSONS RESIDENCES, PLACES OF BUSINESS & SCHOOLS

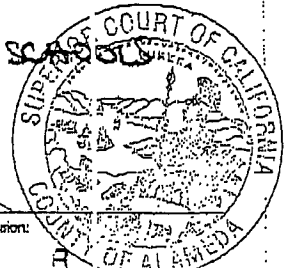
7. This order expires on (specify date): 8/14/13
 If no date is listed, this order expires three years from the date of issuance.

Date: JAN 13 2004

(See warnings on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
MC-220 (Rev. January 1, 2001)PROTECTIVE ORDER IN CRIMINAL PROCEEDING (CLETS)
(Penal Code, § 136.2)

(Distribution: original to file; 1 copy to each protected person; 1 copy to defendant; 1 copy to prosecutor; 1 copy to law enforcement)

Penal Code, §§ 136.2, 168
Form Approved by
Department of Justice

ALAMEDA COUNTY
PROBATION DEPARTMENT

COURT DISPOSITION

PD	ATTORNEY Pro Per	COURT Sup	DEPT. 003
SOC. SEC. #		DATE, TIME 08-14-03	

DEFENDANT'S NAME AS CHARGED Muhammad, Malik AKA: Myers, Henry Melton					
PRIME (FIRST)		(MIDDLE)			
DEFENDANT'S ADDRESS, STREET CITY ZIP 2801 2ND AVE. Sacramento, CA. 95818					
DEFENDANT'S PHONE 455-2018	HEIGHT 6'2"	WEIGHT 200 lbs	HAIR BLACK	EYES	
J.O.B. 11/20/45	STATE CA	ETHNIC B	SEX M	CLASSIFY MAX	PROG. CODE RAVE
SUPERVISION DPO VERNON FROOKS			STAT NUMBER KQ5T	INITIAL HW	

DOCKET # 144082	CEN 228880300	CONT.
PFN ALK 087	CII	CONT.
OFFENSE PC 646.9(a) F; PC 422 F		CONT.
ARRESTING AGENCY Albany PD	CONVICTED BY Jury Verdict	CONT.
INV. P.O. A. STUBBS	PROB. REF. DATE 7/15/03	CONT.
PROCEEDINGS <input checked="" type="checkbox"/> R & S <input type="checkbox"/> SUMMARY <input type="checkbox"/> C.R.C. EXCL <input type="checkbox"/> 1203.03PC RETURN <input type="checkbox"/> 1203.9		

JUDGE **BARR**

BEFORE-NAMED DEFENDANT, BEING PRESENT IN COURT AND HAVING BEEN CONVICTED OF VIOLATION(S) OF SECTION(S) **PC 646.9(a) F PC 422 F**

☒ A. IMPOSITION OF SENTENCE SUSPENDED ☐ B. JUDGMENT OF STATE PRISON IMPOSED; EXECUTION OF SENTENCE SUSPENDED

☐ C. JUDGMENT OF COUNTY JAIL IMPOSED FOR A PERIOD OF _____ DAYS/MONTHS; EXECUTION OF SENTENCE SUSPENDED.

☐ DIVERSION GRANTED FOR _____ ☐ EXTENDED TO _____

☒ PROBATION GRANTED FOR **5** YEARS, COMMENCING (DATE) _____ EXPIRES ON _____ ☐ TERMINATES ON RELEASE

TERMS AND CONDITIONS

7) ☐ 1 JAIL: SERVE THE FIRST _____ DAYS/MONTHS/WEEKENDS IN ALAMEDA COUNTY JAIL COMMENCING (DATE) _____ CREDIT FOR TIME SERVED (DATE) _____ OR _____

8) ☒ 2 PAY **ADD**

\$ _____ = FINE (STATUTORY)	\$ _____ = DRUG LAB FEE
\$ _____ = PENAL CODE PENALTY	\$ _____ = DRUG PROGRAM FEE
\$ _____ = FINE - AIDS EDUCATION	\$ 30 = PROBATION SERVICE FEE
\$ _____ = RESTITUTION FINE	\$ _____ = ALCOHOL EDUCATION FEE
\$ _____ = DIVERSION FEE	\$ _____ = DOMESTIC VIOLENCE FUND
\$ _____ = DIVERSION RESTITUTION FEE	\$ _____ = BATTERED WOMEN'S SHELTER

9) ☐ 3 PAY \$ _____ = RESTITUTION THROUGH PROBATION OFFICER AS SPECIFIED ON PAGE # _____ ON REPORT

10) ☒ 4 MAKE RESTITUTION AS DETERMINED AND DIRECTED BY THE PROBATION OFFICER WITH THE COURT RESERVING THE RIGHT TO REVIEW THE MATTER OF RESTITUTION.

11) ☒ 5 REPORT FORTHWITH TO THE PROBATION OFFICER AND THEREAFTER AS DIRECTED BY THE PROBATION OFFICER AND FOLLOW ALL DIRECTIVES OF THE PROBATION OFFICER.

12) ☒ 6 OBEY ALL LAWS OF THE COMMUNITY AND BE OF GOOD CONDUCT.

13) ☒ 7 SEEK & MAINTAIN EMPLOYMENT AND REPORT ANY CHANGE OF RESIDENCE OR EMPLOYMENT TO THE PROBATION OFFICER WITHIN 7 DAYS.

14) ☒ 8 ALCOHOL: DO NOT DRINK ALCOHOLIC BEVERAGES. SUBMIT TO BLOOD OR BREATH OR URINE TESTS AS REQUESTED BY A PEACE OFFICER. (AND UPON ANY SUBSEQUENT ARREST FOR 23152 OR 23153 VC).

15) ☒ 9 DO NOT USE, POSSESS, OR IN ANY WAY TRAFFIC IN NARCOTICS OR DANGEROUS DRUGS, AND DO NOT ASSOCIATE WITH ANY PERSON(S) USING OR IN ANY WAY TRAFFICKING IN NARCOTICS OR DANGEROUS DRUGS. **INCLUDING MARIJUANA**

16) ☒ 10 SUBMIT TO SUCH EDUCATION, COUNSELING, TREATMENTS OR TESTS AS DIRECTED BY PROBATION OFFICER INCLUDING, BUT NOT LIMITED TO, URINALYSIS. **12 SEP PER**

17) ☒ 11 DO NOT ASSOCIATE WITH ANY PERSON KNOWN TO YOU TO HAVE A CRIMINAL RECORD.

18) ☒ 12 IF ARRESTED, USE YOUR OWN TRUE NAME, ADDRESS, DATE OF BIRTH AND REPORT IN WRITING TO THE PROBATION OFFICER WITHIN 7 DAYS OF SUCH ARREST.

19) ☒ 13 SUBMIT TO SEARCH AND SEIZURE BY ANY PROBATION OFFICER OR ANY OTHER LAW ENFORCEMENT OFFICER AT ANY TIME OF THE DAY OR NIGHT, WITH OR WITHOUT A SEARCH WARRANT. VEHICLE, RESIDENCE, PERSON OR ANY OTHER PROPERTY UNDER YOUR CONTROL (DELETE NON-APPLICABLE).

20) ☒ 14 WEAPONS: DO NOT OWN, USE OR POSSESS ANY FIREARM OR ANY OTHER DANGEROUS OR DEADLY WEAPON.

21) ☒ 15 DO NOT THREATEN, ANNOY, MOLEST, STALK, CONTACT OR COMMIT ANY ACT OF VIOLENCE, SEXUAL ABUSE OR HARASSMENT AGAINST (DELETE NON-APPLICABLE). **IVANG HAD**

22) ☒ 16 STAY AT LEAST 100 YARDS AWAY FROM THE RESIDENCE AND/OR PLACE OF EMPLOYMENT OF **IVANG HAD**

PROGRESS REPORT SET ON **11-18-03** (DATE) AT **9 AM** DEPT. **003**

☒ DEFENDANT MUST APPEAR IN COURT ☐ MUST APPEAR IN COURT UNLESS EXCUSED BY PROBATION OFFICER

☐ 17 COMPLETE BATTERERS TREATMENT PROGRAM.

☐ 18 SUBMIT TO HIV BLOOD TESTING PROCEDURES.

☐ 19 PARTICIPATE IN AN AIDS EDUCATION PROGRAM.

☐ 20 REPORT FORTHWITH FOR DRUG EDUCATION AND TESTING (IDAP).

(P2) ☒ 21 ENTER **INDIVIDUAL INTO THERAPY**

☐ 22 REGISTER PURSUANT TO: () 280 P.C. (R1) () 457.1 P.C. (R3) () 11590 H. & S. (R2)

☐ 23 WORK PROGRAM: WORK _____ DAYS FOR (AGENCY) _____ REPORT IMMEDIATELY AS DIRECTED.

(V3) ☒ 24 DRIVING: DO NOT DRIVE ANY MOTOR VEHICLE UNLESS LAWFULLY LICENSED AND INSURED (NOR WITH ANY MEASURABLE AMOUNT OF ALCOHOL IN BLOOD). SUBMIT TO BLOOD, BREATH OR URINE TESTS AS REQUESTED BY A PEACE OFFICER OR P.O. (AND UPON ANY SUBSEQUENT ARREST FOR 23152 OR 23153 VC)

☐ 25 TRAFFIC SCHOOL: ATTEND AND COMPLETE SCHOOL AS ASSIGNED.

☐ 26 DUI (DRIVING UNDER THE INFLUENCE SCHOOL)

☐ 27 DIC (DRIVER'S IMPROVEMENT COURSE)

☐ 28 DDP (DRINKING DRIVER PROGRAM)

☐ 29 OTHER _____

DRIVER'S LICENSE:

☐ A. SURRENDER DRIVER'S LICENSE TO CLERK OF COURT TO BE SENT TO D.M.V.

☐ B. DRIVING PRIVILEGE AND LICENSE IS SUSPENDED BY THE COURT FOR _____ MONTH(S)

☐ C. DRIVING PRIVILEGE RESTRICTED TO DRIVE TO AND FROM, OR IN THE COURSE OF EMPLOYMENT AND _____

☒ 30 **SUBMIT blood & saliva test to**

☐ 31 **PC 296**

☒ 32 **ENTER INTO ANGER MANAGEMENT**

FAILURE TO COMPLY WITH ANY TERMS OF THIS ORDER MAY RESULT IN REVOCATION OF THE PROBATION AND IMPOSITION OF EXECUTION OF SENTENCE. UPON SUCCESSFUL COMPLETION OF THIS PROBATION DEFENDANT MAY APPLY TO THIS COURT TO HAVE THIS CONVICTION SET ASIDE UNDER THE PROVISIONS OF SECTION 1203.4 OF THE PENAL CODE.

DIVERSION	<input type="checkbox"/> CHARGES DISMISSED	<input type="checkbox"/> CRIMINAL PROCEEDINGS REINSTITUTED	<input type="checkbox"/> REFERENCE WITHDRAWN	<input type="checkbox"/> DIVERSION DENIED
-----------	--	--	--	---

COURTESY SUPERVISION:	INTERSTATE COMPACT:	1203.9:	ACCEPTED	REJECTED
-----------------------	---------------------	---------	----------	----------

PROBATION DENIED	<input type="checkbox"/> STATE PRISON	<input type="checkbox"/> 11704 P.C.	<input type="checkbox"/> COUNTY JAIL	<input type="checkbox"/> COMMUNITY RELEASE	<input type="checkbox"/> CYA	<input type="checkbox"/> OTHER
------------------	---------------------------------------	-------------------------------------	--------------------------------------	--	------------------------------	--------------------------------

PROCEEDINGS SUSPENDED	(DATE)	<input type="checkbox"/> 3051 W & I (ADDICT)	<input type="checkbox"/> 1368 P.C. (SANITY)	<input type="checkbox"/> OTHER
-----------------------	--------	--	---	--------------------------------

OTHER DISPOSITIONS	<input type="checkbox"/> NO APPEARANCE B.W.	<input type="checkbox"/> 1203.03 P.C.	<input type="checkbox"/> 707.2 W & I	<input type="checkbox"/> REFERENCE WITHDRAWN	<input type="checkbox"/> OTHER
--------------------	---	---------------------------------------	--------------------------------------	--	--------------------------------

I HAVE RECEIVED A COPY OF THESE CONDITIONS OF PROBATION. I UNDERSTAND THAT I MUST CONTACT MY PROBATION OFFICER WITHIN 7 DAYS.

000440

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - DETERMINATE

[not valid without completed page two of CR-290 attached]

CR-290

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA BRANCH OR JUDICIAL DISTRICT: RCD		FILED ALAMEDA COUNTY MAY 25 2004 CLERK OF THE SUPERIOR COURT By <i>Jennifer DiMercurio</i> Deputy		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Malik Ali MUHAMMAD AKA: Henry Melton MYERS CII#: BOOKING INFORMATION: PFN: ALK087 CEN: 2288300	DOB: 11-28-45			144082 -A -B -D
<input type="checkbox"/> NOT PRESENT <input type="checkbox"/> AMENDED ABSTRACT				
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT				
DATE OF HEARING 05-24-2004	DEPT. NO. 002	JUDGE KENNETH MARK BURR		
CLERK Jennifer DiMercurio	REPORTER Janith Norman	PROBATION NUMBER OR PROBATION OFFICER no appearance required		
COUNSEL FOR PEOPLE <input checked="" type="checkbox"/> Deputy District Attorney <input type="checkbox"/> State Attorney General Mark McCannon		COUNSEL FOR DEFENDANT <input type="checkbox"/> Deputy Public Defender <input type="checkbox"/> Private Counsel PRO PER		

1. Defendant was convicted of the commission of the following felonies:

- ☐ Additional counts are listed on attachment
 (number of pages attached)

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (Month/Date/Year)	Convicted by			Term (L, M, U)	Concurrent	Consecutive 1/3 Violent	Consecutive 1/3 NON Violent	Consecutive Full Term	Incomplete sentence (refer to item 5)	654 Stay	Principal or Consecutive Time Imposed	
						JURY	COURT	PLEA								YRS.	MOS.
1	PC	646.9(a) probation	STALKING	2002	04-17-2003	X			M							2	--
2	PC	422 probation	TERRORIST THREATS	2002	04-17-2003	X			M			X				--	8

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTION OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

4. ☐ Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

5. INCOMPLETED SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: -0- -0-

7. ☐ Additional indeterminate term (see CR-292).

8. TOTAL TIME excluding county jail term: 2 8mos

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

C00441

PEOPLE OF THE STATE OF CALIFORNIA vs.

DEFENDANT: **Malik Ali MUHAMMAD aka Henry Melton MYERS**

144082

-A

-B

-C

-D

9. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

a. Restitution Fines(s):

Case A: \$400.00	per PC 1202.4(b) forthwith per PC 2085.5;	\$400.00	per PC 1202.45 suspended unless parole is revoked.
Case B: \$	per PC 1202.4(b) forthwith per PC 2085.5;	\$	per PC 1202.45 suspended unless parole is revoked.
Case C: \$	per PC 1202.4(b) forthwith per PC 2085.5;	\$	per PC 1202.45 suspended unless parole is revoked.
Case D: \$	per PC 1202.4(b) forthwith per PC 2085.5;	\$	per PC 1202.45 suspended unless parole is revoked.

b. Restitution per PC 1202.4(f):

Case A: \$	<input type="checkbox"/> Amount to be determined to:	<input type="checkbox"/> victim(s)*	<input type="checkbox"/> Restitution Fund
Case B: \$	<input type="checkbox"/> Amount to be determined to:	<input type="checkbox"/> victim(s)*	<input type="checkbox"/> Restitution Fund
Case C: \$	<input type="checkbox"/> Amount to be determined to:	<input type="checkbox"/> victim(s)*	<input type="checkbox"/> Restitution Fund
Case D: \$	<input type="checkbox"/> Amount to be determined to:	<input type="checkbox"/> victim(s)*	<input type="checkbox"/> Restitution Fund

(*List victim name(s) if known and amount breakdown in item 11, below.)

c. Fine(s):

Case A: \$	per PC 1202.5. \$	per VC 23550 or: days	<input type="checkbox"/> county jail	<input type="checkbox"/> prison in lieu of fine	<input type="checkbox"/> CC	<input type="checkbox"/> CS
Case B: \$	per PC 1202.5. \$	per VC 23550 or: days	<input type="checkbox"/> county jail	<input type="checkbox"/> prison in lieu of fine	<input type="checkbox"/> CC	<input type="checkbox"/> CS
Case C: \$	per PC 1202.5. \$	per VC 23550 or: days	<input type="checkbox"/> county jail	<input type="checkbox"/> prison in lieu of fine	<input type="checkbox"/> CC	<input type="checkbox"/> CS
Case D: \$	per PC 1202.5. \$	per VC 23550 or: days	<input type="checkbox"/> county jail	<input type="checkbox"/> prison in lieu of fine	<input type="checkbox"/> CC	<input type="checkbox"/> CS

d. Lab Fee and Drug Program Fee:

Case A: Lab Fee: \$	per HS 11372.5(a) for counts	<input type="checkbox"/> Drug Program Fee of \$150 per HS 11372.7(a).
Case B: Lab Fee: \$	per HS 11372.5(a) for counts	<input type="checkbox"/> Drug Program Fee of \$150 per HS 11372.7(a).
Case C: Lab Fee: \$	per HS 11372.5(a) for counts	<input type="checkbox"/> Drug Program Fee of \$150 per HS 11372.7(a).
Case D: Lab Fee: \$	per HS 11372.5(a) for counts	<input type="checkbox"/> Drug Program Fee of \$150 per HS 11372.7(a).

10. TESTING

a. ☐ AIDS pursuant to PC 1202.1 b. ☐ DNA pursuant to PC 296 c. ☐ other (specify):

11. Other orders (specify): Deft present during PV hearing of this date. Deft sentenced in ABSENTIA see MO as to Appeal Rights

12. EXECUTION OF SENTENCE IMPOSED

a. ☐ at initial sentencing hearing. d. ☐ at resentencing per recall of commitment. (PC 1170(d).)

b. ☐ at resentencing per decision on appeal. e. ☐ other (specify):

c. ☒ after revocation of probation.

13. CREDIT FOR TIME SERVED

Case A: Total Credits: 560	Actual: 373	Local Conduct: 187	<input type="checkbox"/> 4019	<input type="checkbox"/> 2933.1
Case B: Total Credits:	Actual:	Local Conduct:	<input type="checkbox"/> 4019	<input type="checkbox"/> 2933.1
Case C: Total Credits:	Actual:	Local Conduct:	<input type="checkbox"/> 4019	<input type="checkbox"/> 2933.1
Case D: Total Credits:	Actual:	Local Conduct:	<input type="checkbox"/> 4019	<input type="checkbox"/> 2933.1

DATE SENTENCE PRONOUNCED:

05-24-2004

TIME SERVED IN STATE INSTITUTION:

☐ DMH☐ CDC☐ CRC

14. Defendant is remanded to the custody of the Sheriff: ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to: ☒ reception center designated by Director, California Department of Corrections: ☒ San Quentin ☐ Chowchilla

☐ Other (specify):

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

Jennifer DiMercurio

DATE

05-25-2004

FILE No.322 12/22 '12 15:28 ID:ALA CO DISTRICT ATTORNEY FAX:510 208 3965

PAGE 3

12/22/2004 18:06 FAX 718 248 4884

EMPLOYMENT LAW GROUP

003/007



DECEMBER 7, 2004

CITIGROUP

1 COURT SQUARE, 42 FL.

LONG ISLAND, NY 11720

ATTN: MR. CHUCK PRINCE / CHIEF EXECUTIVE OFFICER

RE:

BRANCH MANAGER

DEAR SIR:

I HAVE ENCLOSED CORRESPONDENCE REGARDING THE
CRIMINAL CONDUCT OF CITIBANK EMPLOYEE,

AS STATED PREVIOUSLY, I INTEND TO EXPOSE ANY AND
 ALL SUBREPTITIOUS ATTEMPTS BY CITIGROUP EMPLOYEES
 AND AGENTS TO CONCEAL EVIDENCE OF THE CRIMINAL
CONDUCT OF CITIBANK EMPLOYEE,

PLEASE FURNISH NAMES AND ADDRESSES OF CITIGROUP
 AUTHORIZED AGENTS FOR ACCEPTANCE OF LEGAL DOCUMENTS,
 (I.E., SUBPOENAS, SUBPOENAE, ETC.)

SINCERELY,

Mutez Ali Muhammad

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER V-37398	INMATE'S NAME MUHAMMAD	LOG NUMBER 04-48-12-042	INSTITUTION CSP-SQ	TODAY'S DATE 01/07/05
<input checked="" type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Under "e & f" where it specifically states, "...Shall not have contact with the protected persons named below." I haven't been in contact or within 100 feet, I've been in here.

Under (6.) under Stay-away does not specifically state that I can not write her "Employer." Place of business is not synonymous with the employer.

Place of Business-defined as "Location where one performs ones financial duties."

I was representing myself as my own attorney ("pro per").

FINDING NOT GUILTY of VIOLATION OF COURT RESTRAINING ORDER.

This finding is based upon the following preponderance of evidence:

- A. This SHU, in review of the Restraining Order, notes in Section "d" of that document no specific condition that Muhammad could not write the complainant's Corporate Headquarters. That section only states that Muhammad cannot make contact by telephone, written, in person, or through a third party (except the attorney of record) the following:

Ivory Jean Hart, her Family, and or Friends, including Elnaries Owens, and Ines Leontien Hogan.

- B. The order also states in #6, "Other Orders Including Stay-Away orders from locations: Protected Person's residences, Places of Business and Schools." The SHU agrees with Muhammad that he did not violate any of these conditions of which the Restraining Order, and the document does not specifically deny him from contacting her place of business in writing. If Muhammad were not to contact her place of business via correspondence, then it should have been included under Section "d."

DISPOSITION: Dismissed. The SHU has no other choice but to find Muhammad Not Guilty and to dismiss the charges of violation of the Court Restraining Order.

Inmate Muhammad was advised that the disposition of the Rules Violation Report would not become final until approved by the Chief Disciplinary Officer, at which time he will receive a final copy of the completed CDC-115. Inmate Muhammad was advised of his right to appeal the findings of this hearing, and the methods of appealing

After review has been completed by the CDO, a copy of this disciplinary report will be sent to the Register of Institution Violations, the original copy of this disciplinary will be given to the inmate and all other copies of this disciplinary will be destroyed. Notice will be sent to Records staff to remove the CDC 304 from the Central file.

SIGNATURE OF WRITER M.D. Thompson, Correctional Lieutenant		DATE SIGNED 1/14/05	
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) C/O T. Marshall	DATE SIGNED 1/20/05	TIME SIGNED 1100

EXHIBIT F

FILE No.322 12/22 '12 15:28 ID:ALA CO DISTRICT ATTORNEY FAX:510 208 3965

PAGE 3

12/22/2004 18:08 FAX 718 248 4984

EMPLOYMENT LAW GROUP

003/007



DECEMBER 7, 2004

CITIGROUP

1 COURT SQUARE, 42 FL.

LONG ISLAND, NY 11720

ATTN: MR. CHECK PRINCE / CHIEF EXECUTIVE OFFICER

RE: BRANCH MANAGER

DEAR SIR:

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CRIMINAL CONDUCT OF CITIBANK EMPLOYEE,

AS STATED PREVIOUSLY, I INTEND TO EXPOSE ANY AND
 ALL SURREPTITIOUS ATTEMPTS BY CITIGROUP EMPLOYEES
 AND AGENTS TO CONCEAL EVIDENCE OF THE CRIMINAL
CONDUCT OF CITIBANK EMPLOYEE,

PLEASE FURNISH NAME(S) AND ADDRESS(S) OF CITIGROUP
 AUTHORIZED AGENT(S) FOR ACCEPTANCE OF LEGAL DOCUMENTS
 (I.E., SUBPOENAS, SUBPOENAS, ETC.)

SINCERELY,

Mamad Ali Muhammad

EXHIBIT G

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER V-37398	INMATE'S NAME MUHAMMAD	LOG NUMBER 04-48-12-042	INSTITUTION CSP-SQ	TODAY'S DATE 01/07/05
<input checked="" type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Under "e & f" where it specifically states, "...Shall not have contact with the protected persons named below." I haven't been in contact or within 100 feet, I've been in here.

Under (6.) under Stay-away does not specifically state that I can not write her "Employer." Place of business is not synonymous with the employer.

Place of Business-defined as "Location where one performs ones financial duties."

I was representing myself as my own attorney ("pro per").

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Ivory Jean Hart, her Family, and or Friends, including Elnaries Owens, and Ines Leontien Hogan.

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DISPOSITION: Dismissed. The SHO has no other choice but to find Muhammad Not Guilty and to dismiss the charges of violation of the Court Restraining Order.

Inmate Muhammad was advised that the disposition of the Rules Violation Report would not become final until approved by the Chief Disciplinary Officer, at which time he will receive a final copy of the completed CDC-115. Inmate Muhammad was advised of his right to appeal the findings of this hearing, and the methods of appealing

After review has been completed by the CDO, a copy of this disciplinary report will be sent to the Register of Institution Violations, the original copy of this disciplinary will be given to the inmate and all other copies of this disciplinary will be destroyed. Notice will be sent to Records staff to remove the CDC 304 from the Central file.

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER M.D. Thompson, Correctional Lieutenant	DATE SIGNED 1/14/05	
	GIVEN BY: (Staff's Signature) C/O T. Marshall	DATE SIGNED 1/20/05	TIME SIGNED 1100

EXHIBIT 5

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Dept. No. 9

Date: April 18, 2006

Hon. LARRY J. GOODMAN, Judge

Fil R. Cruz, Deputy Clerk.
Not Reported, Reporter

IN RE

MALIK ALI MUHAMMAD

AKA: Henry Melton Myers

Petitioner

Counsel appearing

No Appearance
for Petitioner

vs.

Counsel appearing
for Respondent

No Appearance

PEOPLE OF THE STATE OF CALIFORNIA

Respondent

Nature of Proceedings: **ORDER OF THE COURT
REGARDING PETITION FOR WRIT OF HABEAS CORPUS**

Case No. 144082

PFN: ALK087

CEN: 2288300

Petition for writ of habeas corpus is denied. The Petition fails to state a prima facie case for the habeas relief sought.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served **ORDER OF THE COURT** by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Malik Ali Muhammad CDC or ID # V37398
3-C-GYM 151 LOW
C.S.P. P.O. BOX 3471
Corcoran, California
93212-3471

Dated: April 24, 2006

By: 

Fil R. Cruz, Deputy Clerk

EXHIBIT 6

CALIFORNIA APPELLATE COURTS

Case Information



Welcome

1st Appellate District

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Options

In re Muhammad on Habeas Corpus.
Division 4

Case Number A114175



Date	Description	Notes
06/20/2006	Petition for a writ of habeas corpus filed.	
06/20/2006	Exhibits lodged.	one volume;
06/20/2006	Request filed to:	for appointment of counsel;
06/22/2006	Order denying petition filed.	The reqst for appointment of cnsl is denied. To the extent petnr is challenging the jdgmt in Alameda County Superior Court 144082, the petn for writ of habeas corpus is denied on the ground that the writ will not lie when the claimed error could have been, but was not raised upon appeal. (Cite.) To the extent petnr is challenging the jdgmt in Marin County Superior Court SC139601A, the petn is denied on the ground that petnr has an adequate remedy through his pending appeal from that jdgmt (A110774).
06/22/2006	Case complete.	
07/07/2006	Mail returned and re-sent.	copy of 6/22 order to Muhammad; now w/ id no.;

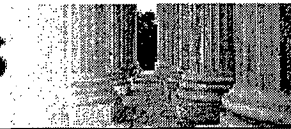
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EXHIBIT 7

CALIFORNIA APPELLATE COURTS

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Court

Supreme Court

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Calendar

MUHAMMAD (MALIK ALI) ON H.C.

Help

Case Number S147365

Opinions



Date	Description	Notes
10/17/2006	Petition for writ of habeas corpus filed	Malik Ali Muhammad, petitioner in pro per
10/17/2006	Exhibit(s) lodged	1 set
04/18/2007	Petition for writ of habeas corpus denied	(See In re Dixon (1953) 41 Cal.2d 756.) George, C. J., was absent and did not participate.

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